

REPORT ON MAINE PUBLIC UTILITIES COMMISSION ORGANIZATIONAL STRUCTURE

I. INTRODUCTION

The utilities we regulate have undergone significant structural and technological changes in recent years, which have resulted in many utility services becoming subject to competition. As the utilities have changed in fundamental ways, it is natural to ask how the Commission must change to carry out its statutory mission. This report examines that question, looking ahead to the next three to five years.

In Part II, we describe how we have begun, and must continue, to change our regulatory focus. We conclude that administrative flexibility is crucial to enable us to continue to use our resources effectively. In Part III, we describe in detail, by industry, the regulatory tasks we expect to undertake over the next three to five years. We conclude that during this period, even though the Maine Legislature and Congress have deregulated some utility services, the transition to competition will continue to add as much to our workload as deregulation will eliminate. In Part IV, we discuss the Commission's organizational structure and whether any changes are warranted because of deregulation. We conclude that the current organizational structure provides us with the flexibility to adapt our administrative processes and reassign our staff resources to handle our expected (or even an increased) workload with the existing level of staff.

II. CHANGING REGULATORY FOCUS: FROM QUASI-JUDICIAL SUBSTITUTE FOR COMPETITION TO FOSTERING COMPETITION AND INCREASED ADVOCACY BEFORE FEDERAL AUTHORITIES

Traditionally, the Commission's main focus has been to set rates for utility services. The Commission acts as a substitute for competition by setting rates based on costs, thereby preventing franchise monopolies from extracting monopoly profits. Cost-of-service ratemaking involves obtaining cost data and adjusting historic costs to account for expected or predicted changes in sales or expenses. The Commission reviews these historic facts and expert predictions using an adjudicatory, trial-type procedure.

As utility services become subject to effective competition, the need for cost-of-service rate setting disappears. In place of such regulation, the Commission must address the needs of consumers, competitors, and other stakeholders. The Commission must ensure that markets work competitively and without market power, which allows one or a small number of participants to dictate prices, and without fraud or other abusive sales practices. Thus, when competition replaces rate regulation, the focus of the Commission's work shifts from a largely retrospective review process to assessing whether competitive markets have been achieved, intervening where they have not, and taking steps to protect consumers from the abuses that often accompany competition.

In dealing with these changes, different administrative processes are necessary. The quasi-judicial rate case process is likely to be too cumbersome, unduly complex and incapable of reacting with the speed necessary to perform the new regulatory functions. As market issues continue to replace regulatory issues, we expect that the Commission will find a greater need to use different techniques, including alternative dispute resolution (ADR), and streamlined approaches that emphasize oral argument rather than cross-examination of witnesses.

Collaboration can introduce creativity into non-enforcement regulatory decision-making. Through collaboration, the Commission can gain a deeper and more detailed understanding of the objectives of all stakeholders and engage in discussions that move outside the boundaries of specific events. In transitioning to competitive utility markets, the Commission has begun to use ADR-like processes, such as technical and settlement conferences. We must have the flexibility to continue to use ADR and other collaborative administrative processes if we are to achieve our new regulatory objectives with existing resources.

At the same time, we must develop administrative processes to efficiently and effectively enforce statutes and rules against providers that are not rate regulated. Before competition, rate regulation was the only enforcement mechanism needed. Because enforcement actions are often “punitive,” the Commission will need the authority and expertise to perform our quasi-judicial role.

One example of the Commission’s exercise of administrative flexibility is the sharp reduction in the advocacy role of the Commission staff. That reduction de-emphasizes the quasi-judicial model, encourages collaborative processes, and more effectively employs Commission resources. Because the *ex parte* rule isolates advocate staff from Commissioners, advocate functions impede the Commissioners’ ability to receive the staff support necessary to keep them informed at a time when utility sectors are more complex and changing rapidly. Assigning both advisor and advocate functions to proceedings uses too much of the available staff resources and is duplicative, because in both roles staff seek the same result: ensuring that Commissioners have the information they need to make balanced decisions consistent with our statutory mandate. Eliminating staff advocates has permitted the Commission to function effectively in a more complex regulatory world with fewer professional staff members.

III. FUNCTIONS PUC WILL PERFORM AND RESOURCES NEEDED TO PERFORM THEM

A. Ratemaking

For at least the next five years, many utility services will remain *de facto* or *de jure* natural monopolies and will be subject to rate regulation.

1. Electric Industry

We expect Transmission and Distribution (T&D) service to remain a monopoly, subject to rate regulation. However, we expect our workload for this activity to be reduced by one-third to one-half of that required to rate regulate electric utilities prior to restructuring.

The Maine PUC will continue to set distribution rates. We expect to do so by means of price caps or Alternative Rate Plans (ARPs) rather than traditional rate-of-return rate regulation. We implemented an ARP for Central Maine Power Company's (CMP) distribution rates in 2000. We are currently processing a case to do the same for Bangor Hydro Electric Company (BHE), and we expect to implement a distribution rate ARP for Maine Public Service Company (MPS) during 2002.

Transmission rates will be set by the FERC. Because significant ratepayer interests are often at stake, the Maine PUC has participated in the FERC rate proceedings and expects to continue to do so. At present, transmission rates for the three investor-owned Maine T&D utilities are set by formula and likely will be negotiated rather than litigated.

For at least five more years, stranded costs will remain a significant portion of distribution rates for all three investor-owned T&D utilities. Review of the utilities' efforts to mitigate stranded costs must occur every two or three years, and will require effort similar to a small traditional rate case.

2. Gas Industry

Local Distribution Companies (LDC) will continue to be treated as monopoly service providers whose rates are regulated by the PUC, notwithstanding our adoption of an innovative competitive service area policy (discussed further below). Gas pipelines, like Maritimes and Northeast and Portland Natural Gas Transmission Service (PNGTS), are utilities regulated by FERC. There are three gas distribution utilities in Maine. Northern Utilities has served customers in Portland and Lewiston for many years. By contrast, Maine Natural Gas, LLC and Bangor Gas Company, LLC were formed to take advantage of the new interstate pipelines that were built in Maine during the late 1990s. To speed expansion of gas infrastructure in the state, consistent with state energy policy promoting use of natural gas as a fuel, the Commission authorized overlapping service areas to LDCs operating in Maine, allowing LDCs to compete for customers in unserved areas. While this policy injects a competitive element into gas utility service, once an LDC establishes itself in an area, it is unlikely that another LDC would invest in that area, essentially resulting in one monopoly provider in a given area. As LDCs continue their expansion into served and unserved municipalities, however, disputes may occur requiring the Commission to refine aspects of our "competitive service territory" policy.

Northern Utilities remains subject to traditional, rate-of-return regulation. The Commission continues to explore implementing incentive mechanisms in Northern's rates, and has invited Northern to submit such a plan. In authorizing Maine Natural Gas and Bangor Gas to serve customers as gas utilities, we implemented alternative rate plans rather than traditional rate-of-return regulation. Each of the rate plans was tailored to the business plans as submitted by the utilities, and requires less regulatory effort than rate of return regulation. Even so, because of the expansion of gas utility service since the mid-1990s and the increased complexity of the industry as it moves toward industry restructuring on a national level, we devote more staff resources to the gas industry now than we have in the past. We estimate that the equivalent of three full-time professional employees are needed to perform rate regulation of gas utilities. For the next five years, we expect little or no change in the workload necessary for the Commission to set rates for the LDCs in Maine and to intervene in FERC proceedings involving Maine pipelines. Moreover, other aspects of LDC activity in Maine, such as further development of gas supply competition, resolution of disputes arising from conflicting competitive and regulatory goals, and ensuring adequate service quality, will require heightened regulatory attention.

Although beyond the scope of this report, the Legislature may want to consider eliminating rate regulation of LDCs. With modest investment, alternative non-regulated fuels may serve as ready substitutes for natural gas in both the commercial and residential sectors (e.g., oil can replace natural gas for heating and hot water by replacement of the burner in the furnace). The ease of fuel substitution has already contributed to lower regulatory effort, by allowing us to authorize Bangor Gas and Maine Natural Gas to introduce gas service subject to alternative rate plans, which impose investment risk on utility shareholders rather than ratepayers.

3. Telephone Industry

Over the next five years, we expect the local exchange aspect of the telephone industry to become increasingly competitive, at least in the service territory of Verizon Maine. Verizon continues to be regulated under an alternative form of regulation (AFOR) that caps the rates for basic exchange service for the 5-year term of the renewed AFOR. The AFOR gives Verizon pricing flexibility for nearly all other retail rates, and the Company may request that the Commission examine the expansion of competition in the local exchange market (or in subparts of the market) to determine if an effectively competitive environment exists. If competition were found to exist, the Commission could allow pricing freedom for Verizon for local services.

The 22 independent telephone companies continue to be regulated under traditional rate-of-return regulation, and in order to implement the intrastate access rate requirements of Title 35-A § 7107-B, these companies will likely need to increase their basic rates. The process of analyzing the revenue requirement needs and rate design of each of the independent companies will require a significant and nearly continuous expenditure of resources over the next several years, because section 7107-B requires that intrastate access rates be reset every two years to a level

that is less than or equal to interstate rates. The Commission recently adopted a Universal Service Fund mechanism that helps the independent companies to maintain comparable and affordable local rates, while reducing their intrastate access rates to the interstate level. The Commission may also consider implementing incentive regulatory schemes with the independent companies.

Verizon has complete pricing flexibility for its intrastate toll service, and it will have that same flexibility if it receives authority to originate interstate toll traffic. The Commission must give the FCC a recommendation about Verizon's suitability to enter the interstate toll market, based on the Commission's assessment of Verizon's success in opening the local exchange market to competition. The intrastate toll market currently exhibits a significant degree of competition. Almost 300 carriers have been certified to provide this service, and with the mirroring of intrastate and interstate access rates, in-state toll rates have been significantly reduced over the past several years. This trend is likely to continue, and the Commission's primary responsibility will be to prevent unauthorized switches of customers' authorized long-distance carriers and to ensure that customers receive proper notice of any price increases, as is now required by statute.

The issue of local service calling areas will receive considerable attention in the next few years. The current system represents a blending of historical precedent, customer activism and legislative mandate. While a complete overhaul of the current system is unlikely, some significant modifications may be needed to bring more equity to calling areas throughout the state. Among the major issues that will be addressed are calling to contiguous exchanges, municipal calling and calling within school districts. Each of these matters presents complex issues that must be examined in the overall context of fair and equitable local calling areas at reasonable and affordable rates. Much of the preliminary work has already been completed, but bringing the project to completion will require additional staff time and effort.

4. Water Utilities

We expect little change over the next five years in the workload associated with regulating water utilities. Since the early 1990s, the Commission has supported legislation to remove water utilities from its regulatory authority. These attempts, whether initiated by the water utility industry or the Commission, have failed. During the first regular session of the 120th Legislature, legislation that would have allowed water utilities to "opt-out" of our regulatory oversight was also defeated. Therefore, we will continue to apply traditional rate-of-return regulation to the few remaining investor-owned water utilities. Consumer-owned water utilities will continue to set their own rates, subject to Commission review only when customers petition the Commission.

5. Summary

While the Commission will continue to engage in traditional, cost of service regulation, the combination of incentive rate regulation and the introduction of competition will reduce the amount of resources we must devote to those activities. The Commission will conduct less formal proceedings, meaning less staff effort will be devoted to hearing examiner tasks, and to cost of capital, accounting, and cost study tasks. Over the next five years, it is very difficult to measure the reduced need because the electric stranded cost burden will remain significant, incentive rate plans are needed in all industry areas, and by nature, rate cases are a reactive rather than proactive task.

B. Enforce and Monitor Utility Service Quality Standards

With the continued trend toward incentive rate plans in both the telephone and T&D industries, the Commission's ability to monitor, evaluate and enforce service quality standards becomes more critical. Allowing utilities to retain all or most of the gains resulting from greater efficiency creates the danger that they will seek to become more "efficient" by reducing their level of service. Thus, the development and enforcement of service quality standards takes on greater urgency. The Commission possesses the necessary staff to accomplish these tasks.

C. Monitor and Ensure Continued Availability of Formerly Regulated But Now Competitive Goods and Services

1. Competitive Electric Generation and Standard Offer

Electricity cannot easily be stored and must be generated at the instant it is consumed. Each electricity system operates as an interconnected grid with all sources of generation producing power in an alternating current – as a synchronous machine. The unique nature of electricity requires that, within a single interconnection, all generators be operated in a coordinated fashion and that there be an operator who coordinates transmission and generation within each control area. At present most of Maine's electricity grid is operated as part of a New England-wide interconnection by the New England Independent System Operator (ISO-NE). Because generation is relatively concentrated among a few generation owners within New England, and because transmission of electricity may be constrained, the possibility exists that generation owners will be able to exercise market power, especially at times of peak electricity use, in a way that reduces the effectiveness of competition.

The responsibility for establishing the market rules to avoid the exercise of such market power lies with the ISO-NE and ultimately the FERC. Because of the direct impact that ISO-NE and FERC actions have on the price and availability of generation services for Maine consumers, the Commission has devoted significant

resources in participating in matters before the ISO-NE and the FERC.¹ Representatives from the State Planning Office, the Office of the Public Advocate and the Department of Attorney General also participate in these regional and federal matters. The Commission coordinates with the other agencies to ensure the effective and efficient representation of the State's interest in these matters. We expect that over the next three to five years significant staff resources will be required to protect Maine consumers' interests before the regional and federal agencies. Presently, the Commission devotes three full-time professional staff members to these tasks (one lawyer, one engineer, and one economist).

In addition, because FERC and other parties' counsel are located in Washington, D.C. and the administrative practice before FERC is so specialized, it is cost effective for the Commission to employ counsel in Washington. We often coordinate our FERC participation with the New England Conference of Public Utilities Commissioners (NECPUC) and share counsel expense with the other New England states. The increasing federal role in electricity matters has resulted in a substantial increase in our effort, with a concomitant increase in its costs.

We have filed comments either on our own behalf or as a member of NECPUC or both in at least 22 cases before FERC in the last 12 months. We have also participated as a party in the appeal of FERC actions before the Federal Courts. In the past 12 months, we have spent approximately \$140,000 on D.C. counsel. More than one-third of this expense involved litigation over the Installed Capability (ICAP) charge in which millions of dollars of Maine customers' money was at stake and ultimately saved.

At least during the transition to full competition, the Commission will continue to play a role in ensuring the universal availability of generation service to Maine consumers through the provision of standard offer service. Due to price volatility and other uncertainties in the New England regional wholesale market and the costs of serving many individual customers with relatively small usage, a retail market for Maine's residential and small non-residential electric consumers has not yet developed. These consumers, together with significant numbers of medium and large non-residential customers, remain on standard offer. Over the next three to five years, we expect that the Commission will continue to obtain standard offer supply, in conjunction with the T&D utilities, for many Maine electric customers. This activity will require significant staff time and other resources. As many as four staff members work full time on the bid preparation and administration process, which takes up to two or three months for each bid process, several of which may occur in any one year.

¹ In a letter attached to the Joint Standing Committee on Utilities and Energy Government Evaluation Act (GEA) review of the Commission, the Committee chairs encouraged the Commission to "continue its efforts and assign adequate staff to promote Maine's interest before regional entities and federal agencies with jurisdiction over markets that extend beyond Maine's borders but which affect Maine Consumers."

2. Gas Supply

All three local distribution gas utilities offer transport-only rate schedules, permitting commercial and industrial users to purchase their own gas supply. At this point, however, the three Maine LDCs must offer gas supply to all customers. We do not expect the obligation to provide gas supply to change in the next five years, although we expect that, as the competitive gas supply market develops, we will be called upon to regulate aspects of the relationships among LDCs, suppliers and customers.

Last year the nation experienced unprecedented fluctuations in natural gas market prices. The effect of Bangor Gas and Northern Utility's seasonal (6-month) cost of gas adjustment clauses has been to dampen the immediate impact of recent market price volatility. However, these rate mechanisms insulate the companies from procurement risk by passing all gas costs on to customers. Maine Natural Gas offers an array of variable and fixed price options to its customers. Because gas markets are expected to remain more volatile due to significant increases in demand, the Commission will continue to consider the benefits of allowing consumers more control of their fuel purchasing decisions by having utilities offer more pricing options. The Commission may also require performance-based or hedging mechanisms for gas supply procurement to mitigate the effect of market spikes on consumers or appropriately balance the market risk.

3. Telephone Service

In the near term, we expect that Verizon and the independent telephone companies, designated as incumbent local exchange carriers (ILECs), will retain an obligation to serve local exchange customers as regulated utilities. It is conceivable that technology changes will enable alternative services, such as cellular or cable TV, to substitute for local exchange service to an extent that reduces or eliminates the need to have public utilities with an obligation to serve all consumers. At this time, however, we expect that the regulation of local exchange service will require staff, time and resources similar to that which has been necessary during recent years.

D. Licensed Competitive Providers

By the Electric Restructuring Act, providers of generation service, now called competitive electricity providers or CEPs, are not public utilities. While these competitive providers are not regulated as utilities, the Commission is responsible for licensing them. Through the license process, the Commission protects consumers by ensuring that each license applicant meets certain technical and financial standards. The license process also allows the Commission to screen for consumer abuses that an applicant may have perpetrated in other jurisdictions. Presently the Commission has licensed almost 40 electric CEPs.

Telephone carriers providing interexchange (toll) service (IXCs) are considered telephone utilities, but the Commission does not regulate their rates.² We license them (by issuing a certificate of public convenience and necessity) and enforce consumer protection statutes and rules (e.g., 30-day notice for rate changes). Presently the Commission has issued certificates for almost 300 IXCs. Competitive local exchange carriers (CLECS) are also telephone utilities, and similarly are granted certificates and subjected to consumer rules. The Commission has granted more than 50 certificates to CLECs. The Commission can perform the licensing function for both electric and telephone carriers with existing staff members and expertise.

E. Consumer Protection

The Commission's Consumer Assistance Division will continue to process and resolve disputes between utilities and customers. We do not expect any significant reduction in utility-customer complaints over the next three to five years notwithstanding deregulation of generation service and competition in the intrastate toll markets. As a competitive generation market for residential customers has not developed and standard offer service is treated like a utility service for disconnection rules purposes, we also do not expect a reduction in electric disconnection cases during that period.

Because the Commission regulates the acts and practices of a public utility, the primary focus of the CAD's complaint process is often the utility rather than the customer. The CAD's role is to limit the utility's power over its customers in the provision of an essential service through such measures as restricting the use of disconnection as a collection device. With ratemaking authority, the Commission can take actions that have a direct financial impact on a utility with significant customer complaint problems.

As competitive markets have begun to develop for utility services, consumer complaints have grown.³ We expect additional staff needs to provide consumer protection services for customers of competitive service providers. Assisting customers to avoid or resolve disputes with competitive service providers involves a different approach from that traditionally taken by the Commission's consumer specialists. Where competition is developing, consumer specialists must focus on the needs (especially accurate and intelligible information) of those who receive service in addition to the activities of those who provide it. Consumer specialists will need new skills to adapt to these changes.

Along with the traditional intake function, additional investigation and mediation will be necessary. The Commission and CAD will have to respond quickly to

² As utilities, their rates must be on file with the Commission.

³ Commissioner William Gillis, "State Commissions in Transition: The NARUC Consumer Issues Challenge," *NRRI Quarterly Bulletin* 20, no. 2 (1999): 171-176.

unfair and deceptive marketing and advertising practices. More customer complaint data must be compiled and published. CAD will have to work with other Commission divisions to ensure that competitive providers are complying with the Commission's rules and the providers' licenses. Lacking the leverage that comes with ratemaking authority, the Commission will likely have to make greater use of traditional enforcement approaches, a change that may require devoting more attorney time to this function.

Competition is expected to increase consumer welfare by providing lower prices and better quality service. For competition to be successful, customers must be knowledgeable. Accordingly, the Commission will work to educate consumers so that they are better able to take advantage of opportunities in the marketplace. We expect to accomplish this effort with existing personnel and resources.

Customers who have depended on public utility regulation as a proxy for making choices likely will not quickly and easily become fully informed consumers. Transitional markets in the telecommunications industry have provided more opportunities for consumer fraud than fully developed markets. As markets reach maturity, we hope that consumer protection activity will be reduced, though we do not expect it can ever be eliminated. Over the next three to five years, we do not expect the competitive markets in electricity, telephone or gas to reach maturity, especially not at the residential/small business level, which includes the vast majority of utility customers.

F. Regulate Utility Industry Structure

The Commission will continue to review mergers and acquisitions involving public utilities. The introduction of competition into the utilities service arena, as well as the convergence of gas, electric and telephone industries, have resulted in a consolidation of the business entities providing these services across the nation. It is unclear to what extent this activity will continue.

The legal ability of utility providers to create affiliates that will provide competitive services could require additional scrutiny by the Commission of transactions between the utility and its affiliates, as well as the enforcement of codes of conduct on the part of the Commission staff. We do not anticipate a significant staff effort dealing with mergers over the next few years. However, there is likely to be significant effort in monitoring and reviewing affiliate transactions and relationships.

G. Continue to Unbundle Utility Service to Introduce More Competition

By 35-A M.R.S.A. § 3202(4), the Commission already is authorized to introduce competition in the provision of billing and metering services for electric services. It is not clear at this time whether the retail electricity market will develop sufficiently during the next five years to introduce effective competition in metering and billing services. Similar opportunities may exist in the gas industry, but we do not

expect that competition for metering and billing will be achieved for gas customers in the next five years.

H. Referee Among Competitors

Given its specialized knowledge of the energy, telecommunications and water industries, the Commission will be the logical forum, especially in the energy area, to decide disputes between a utility affiliate and one or more of its competitors. This will entail the Commission's enforcement of its codes of conduct and license conditions. There will also be interactions between competitive providers and utilities, some of which may require Commission intervention. The Commission may be called on to establish interconnection standards, standard contracts, or standardized methods of communications among service providers (electronic data interchange – EDI) so that consumers can easily move from one provider to another. We expect that the Commission will be able to perform these “referee” functions with existing resources.

Our referee functions in the telecommunications industry will be important because most CLECs will use some or all of the Verizon network in providing their competitive services. The Commission is about to complete its TELRIC (Total Element Long-Run Incremental Cost) investigation, in which the Commission will set the rates for the use of pieces of Verizon's network by CLECs. The TELRIC standard rates will be an important part of processing another pending matter, Verizon's request pursuant to section 271 of the Telecommunications Act of 1996 that the Commission certify to the Federal Communications Commission (FCC) that local exchange service has become sufficiently open to competition in Maine to allow Verizon to originate interstate toll traffic. As part of the section 271 certification case, Verizon proposes a Performance Assurance Plan to ensure that Verizon treats CLECs identically to the way Verizon treats its own retail customers. Whether or not the Commission adopts Verizon's plan, the Commission will be required to monitor Verizon's performance in allowing CLECs access to its network elements. Over the next few years, we expect to spend considerable staff and Commission resources in resolving CLEC/Verizon disputes. We expect to do so, however, within existing resources.

I. Transmission Siting

The Commission continues to have jurisdiction over the building of new electric transmission infrastructure. With the unbundling of electric services between competitive generation and regulated delivery services, the Commission may face difficult issues assessing public need for transmission infrastructure that can be substituted for competitive generation facilities.

J. Public Interest Concerns

Even as more and more utility services are obtained through competition, the public interest in affordable, safe and reliable energy, water and communications sources will remain. We anticipate that the Commission may be called upon to

address issues involving service reliability and network safety, the adequacy of the infrastructure to promote universal service, and the economic development and environmental effects of utility actions. These infrastructure issues were subject to direct regulatory oversight in the monopoly utility universe; new approaches will be needed in the future. We expect to be able to conduct our reliability and safety-related tasks with our existing personnel. We note that in the aftermath of September 11th, safety and security concerns may require more resources than we presently devote to these matters.

IV. THE PUC ORGANIZATIONAL STRUCTURE

For some time, the Commission has been organized by function, with separate Legal, Finance, Technical Analysis (T.A., formerly Engineering) and Consumer Assistance Divisions. An Administrative Division performs clerical and other support functions. Supervising each division is a director, who serves at the pleasure of the Commission, with ultimate supervisory responsibility vested in the Chairman.

Traditional regulatory activities like rate cases have been conducted by teams of at least one professional from each of the Legal, Finance and T.A. divisions, with members of CAD added if service quality or complaint-related issues were raised. The division functions were derived from the typical rate case requirements: lawyers were needed as hearing examiners (and advocates), accountants, financial analysts, and economists performed typical financial tasks, and engineers, computer analysts, mathematicians, and economists performed technical and analytical work.

We expect that in the future less than one-half of total staff time will be spent on traditional regulatory issues. However, the professional skills, knowledge, and experience that are represented in the current division structure are essential to carrying out the tasks that the Commission must perform during the transition to competition. Lawyers can function as mediators and arbitrators as well as investigators and prosecutors in consumer protection matters. Financial analysts and economists can perform market monitoring analysis and related tasks. Engineers and technical experts can assess network reliability, safety and service quality issues. Thus, while the Commission has begun and will continue to perform fewer ratemaking tasks and more competitive-transition tasks, the professional capabilities inherent in the current division structure are appropriate.

Even though the organization is structured by functions, the Commission staff performs most of its regulatory work in industry-specific teams, each with lawyers and utility analysts from Finance and/or T.A. Team leaders supervise these teams. Work is performed on an industry-specific basis, because each of the utility's products and network (electricity, gas, telephone and water) are sufficiently distinct that effective staff work requires expertise in the industry. There is little overlap among the electric, gas, telephone and water teams because electric, gas and telephone expertise is not readily transferable from one industry area to another.

We have considered an organizational structure divided by industry rather than by function, so that division structures more closely match supervisory responsibility. We have concluded that such a change would not be beneficial. Organization by function permits professional development and education among division members, even though most of the staff work remains performed by cross-functional teams. Moreover, for statutory reasons, lawyers must be supervised by the General Counsel.

Despite some overlap in Finance and T.A. Divisions' skill sets, most finance and engineering functions remain distinct. Because of the distinctions, we have concluded that we should retain both divisions. The importance of this issue is lessened because we operate in industry-specific teams, and not in finance or technical teams. In addition, the statutory classification of utility analyst as the position description for both Finance and T.A. means the Commission has substantial flexibility in hiring persons with finance or technical skills, as the Commission's needs change.

We are contemplating a minor organizational change, i.e., the creation of an Executive Director position. This position would replace the current position of Administrative Director. While retaining the Administrative Director's current statutory functions, the Executive Director would have more explicit and direct responsibility, in conjunction with the Chairman, for the day-to-day operational management of the Commission, including fiscal, personnel, contract and docket management, physical plant, and computer operations. This change would help to prepare the Commission for further organizational changes necessitated by changes in its functions.

In addition, we anticipate an expanded Consumer Assistance Division. As described above, the division presently consists primarily of complaint specialists. We contemplate assigning one (or more) attorneys to the division to provide it with enforcement expertise and capability. For our consumer protection policies and rules to be effective, someone must monitor provider behavior and enforce the rules that ensure that consumers receive the information they require and are not victimized by abusive practices. We believe that, with adequate legal assistance, the CAD can perform these additional functions, and do so using the existing resources of the Commission, as we devote less of those resources to traditional regulatory activities.

While the enforcement function could be performed by other state agencies, e.g. the Department of the Attorney General, we believe that a logical nexus exists between the enforcement function, as it applies to traditionally utility-provided services, and the Commission. The Commission possesses significant expertise in this complex field. The Commission has the customer complaint-handling infrastructure. The Commission is responsible for licensing competitive providers, a requirement that is designed to protect consumers. The Commission would therefore

possess a logical enforcement tool, namely the jurisdiction to revoke licenses of competitive providers that violate rules or commit consumer fraud or abuses.⁴

We expect to continue to devote additional resources to public communication, including the consumer education necessary to the success of monopoly-turned-competitive markets. The public communication function does not fit neatly into the current organizational structure by division. Given the importance of the function, the primary responsibility for public communication rests with the Commissioners, and members of the staff who carry out public communication functions -- e.g. the Director of CAD and staff assigned to public outreach and information provided to the media -- report directly to the Commissioners concerning their public communication tasks.

Our ability to obtain a wide range of professional skills, and to form multiple cross-functional teams as the need arises, serves the public especially well in this time of transition to competitive services. For example, when the Commission was implementing the Electric Restructuring Act in the late 1990s, we anticipated that conducting the standard offer bid processes would be a relatively ministerial matter. Instead, nothing has been standard or ministerial. Two attorneys and two analysts work full-time for months at a time. Fortunately, the Commission has the organizational flexibility to reassign employees with the skills necessary to secure standard offer power, as well as the administrative flexibility to delay some proceedings, such as T&D rate design, to accommodate the revised standard offer process schedules. Similarly, our flexibility allows us to devote three full-time employees to work to promote Maine's interests before the entities with jurisdiction over New England's regional electricity market. In short, flexibility is critical if the Commission is to respond effectively to the rapid technological and regulatory changes occurring in the industries we regulate.

Rapid change makes it difficult to forecast organizational needs over the next few years with any precision. Experience has demonstrated that most of these rapid changes result in an increase, rather than a decrease, in workload, at least in the short term. Even so, during the past five years we have reduced our staff size from a legislatively authorized level of 69 positions to our current level of 62 positions. The Commission has been able (as described above) to reduce its staffing level--while accommodating increased responsibilities in representing Maine in regional and national energy forums, administering standard offer energy acquisition processes, and policing the consumer practices of a vastly increased number of telecommunications providers--through a combination of streamlined processes and legislatively permitted administrative flexibility.

We are constantly evaluating our needs and adjusting our resources to meet our needs. In doing so, we are constantly "pushing" the use of technology to meet the

⁴ When appropriate, we anticipate working closely with the Department of the Attorney General, for example by referring enforcement cases to that department when its participation is legally required.

needs of the ratepayers, utilities, and Maine citizens who wish to participate in our processes. These efforts are reducing costs while increasing public access to the Commission, making it one of the most open and accessible of all state agencies. This type of organizational evaluation will continue as we move through the transition to functional competitive markets for utility services and strive to meet our customers' needs.

To maintain our administrative flexibility, we do not anticipate a significant reduction in staffing levels in the near future, although we may recommend a reduction of two more positions in our FY04/05 budget submission. Furthermore, given the uncertain nature of the future we face, we will ask the Legislature to provide the Commission with the same budgetary flexibility in our FY04/05 budget that it gave us in our FY02/03 budget, i.e., authorizing assessments to meet current staffing levels and allowing us to "carryover" unexpended monies into each of these budget years for use as necessary to meet unanticipated needs. Our FY04/05 budget request scheduled for submission in September 2002 will reflect these requests.